

Docket No.: 043888-0267

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 20277
Tsutomu OHZUKU, et al.	:	Confirmation Number: 9492
Application No.: 10/629,815	:	Group Art Unit: 1745
Filed: July 30, 2003	:	Examiner: LEE, CYNTHIA K

For: POSITIVE ELECTRODE ACTIVE MATERIAL AND NON-AQUEOUS ELECTROLYTE  
SECONDARY BATTERY CONTAINING THE SAME

**Declaration Under 37 C.F.R. § 1.132**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Dr. Hiroshi Yoshizawa, declare as follows:

1. I received a doctorate of Engineering from the Graduate School of Engineering, Osaka City University.
2. My field of specialty is lithium ion secondary batteries.
3. Since 1987, I have been employed by Matsushita Battery Industrial Co., Ltd., a subsidiary of Matsushita Electric Industrial Co., Ltd.
4. I have been working in the field of research and development of lithium ion secondary batteries for the past 10 years.

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5. I am a coinventor of U.S. Patent Application Serial No. 10/629,815, POSITIVE ELECTRODE ACTIVE MATERIAL AND NON-AQUEOUS ELECTROLYTE SECONDARY BATTERY CONTAINING THE SAME, filed July 30, 2003 (the present invention).

6. I have read and am familiar with the disclosure of the above-captioned patent application. I have read and am familiar with Ohzuku et al., *Layered Lithium Insertion Material of  $\text{LiCo}_{1/3}\text{Ni}_{1/3}\text{Mn}_{1/3}\text{O}_2$  for Lithium-Ion Batteries* (Chemistry Letters, CL-010390, Vol. 30 (2001), No. 7, pp. 642-43) and Ohzuku et al., *Layered Lithium Insertion Material of  $\text{LiNi}_{1/2}\text{Mn}_{1/2}\text{O}_2$  for Lithium-Ion Batteries: a Possible Alternative to  $\text{LiCoO}_2$  for Advanced Lithium-Ion Batteries* (Chemistry Letters, CL-010410, Vol. 30 (2001), No. 8, pp. 744-45).

7. At my direction and under my supervision positive electrode active material according to Example 1-2 of the present invention was fabricated.

8. At my direction and under my supervision positive electrode active material according to *Layered Lithium Insertion Material of  $\text{LiCo}_{1/3}\text{Ni}_{1/3}\text{Mn}_{1/3}\text{O}_2$  for Lithium-Ion Batteries* (Chemistry Letters, CL-010390) was fabricated from  $\text{LiOH}\cdot\text{H}_2\text{O}$ ,  $\text{CoCO}_3$ , and nickel manganese hydroxide in the manner described on page 642, left column, 17th line from the bottom, et seq.

9. The positive electrode active material fabricated according to the present invention and the positive electrode active material fabricated according to Chemistry Letter, CL-010390 were analyzed by Electron Probe Micro Analysis (EPMA) using a JEOL Ltd. JXA-8900, under the following conditions:

Temperature:	Room Temperature
Irradiation Current:	$5 \times 10^{-8}$ A
Acceleration Voltage:	15 kV
Range of Analysis:	
(x-direction)	$0.2 \mu\text{m} \times 340 \text{ points} = 68 \mu\text{m}$
(y-direction)	$0.2 \mu\text{m} \times 255 \text{ points} = 51 \mu\text{m}$

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10. The distribution of cobalt in the Chemistry Letters, CL-010390 material is shown in Exhibit A in the micrograph labeled "prior art" and the cobalt distribution in the material according to the present invention is shown in the micrograph labeled "our invention." Green represents a low concentration and red represents a high concentration.

11. Exhibit B illustrates the distribution of cobalt, manganese, and nickel in the material according to the present invention.

12. As illustrated in Exhibit A, positive electrode active material fabricated according to Chemistry Letters, CL-010390 exhibit a non-uniform elemental distribution. Exhibit A, as indicated by the Co-rich and Co-poor areas, clearly shows a widely varying distribution of cobalt in the Chemistry Letters, CL-010390 positive electrode active material. In contrast thereto, Exhibits A and B clearly illustrate that cobalt is uniformly dispersed throughout the positive electrode active material according to the present invention.

13. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issuing therefrom.

January 18, 2007  
Date

Hiroshi Yoshizawa  
Hiroshi Yoshizawa